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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,665	07/10/2003	Louis Pericard	11578.897	9949

7590 09/21/2004

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EXAMINER

HUYNH, KHOA D

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/616,665

Applicant(s)

PERICARD, LOUIS

Examiner

Khoa D. Huynh

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 5-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Invention I, claims 1-4 in the reply filed on 06/25/2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 5-12 have been withdrawn from further consideration as being drawn to non-elected inventions.

Claim Objections

2. Claim 2 is objected to because of the following informalities: line 5, the recitations "and gasket" should change to read --and a gasket--. Appropriate correction is suggested.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, as presently understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Flynn (3454198).

Regarding claim 1, the Flynn reference discloses an aerosol container.

The container includes an outer container (10) having an interior container space formed between the outer container (10) and an inner container or bag (50). The container also includes an aerosol valve (Fig. 2) having a valve stem (Fig. 3), a

valve housing (28) and the bag (50) is mounted on said valve housing. As schematically shown in Figure 3, the valve stem includes an intermediate portion having an exterior frusto-conical annular surface (about 82), and the valve housing includes an interior frusto-conical annular surface (at 70 in Figure 2). The frusto-conical annular surfaces are in annular sealing contact (Fig. 2) with each other when the stem is deeply depressed for propellant pressure filling, thereby preventing access of the propellant into the bag (col. 4, lines 69-75; col. 5, lines 1-6).

Regarding claim 2, the Flynn reference discloses an aerosol container. The container includes an outer container (10) having an interior container space formed between the outer container (10) and an inner container or bag (50). The container also includes an aerosol valve (Fig. 2) having a valve stem (Fig. 3), a valve housing (28), and a gasket (30) mounted in a mounting cup (12). As shown in Figure 2, the gasket is surrounding the valve stem and having a top surface abutting a bottom surface of the mounting cup. The bag (50) is mounted on said valve housing. As schematically shown in Figure 4, the valve stem includes a portion having an exterior annular surface (about 82), and the valve housing includes an interior annular surface (at 70 in Figure 2). The annular surfaces are in annular sealing contact (Fig. 2) with each other when the stem is deeply depressed for propellant pressure filling between the gasket top surface and the mounting cup bottom surface and around the outside of the gasket,

thereby preventing access of the propellant into the bag (col. 4, lines 69-75; col. 5, lines 1-6).

Regarding claim 3, as schematically shown in Figures 2 and 3, the exterior annular surface of the valve stem and the interior annular surface of the valve housing are both frusto-conical.

Regarding claim 4, as schematically shown in Figure 3, the exterior annular surface is positioned at an intermediate portion of the valve stem.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ruscitti was cited to show an aerosol valve having an outer container, an inner bag, a valve stem having an exterior annular surface and a valve housing having an interior annular surface.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (703) 306-5483. The examiner can normally be reached on M-F (7:00-4:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (703) 308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoa D. Huynh
Patent Examiner
Art Unit 3751

HK
09/20/2004